

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

NATIONAL ROOFING INDUSTRY	)	
PENSION PLAN,	)	
and	)	
JOHN MARTINI,	)	
as trustee of the National Roofing Industry	)	
Pension Plan,	)	
	)	No. 4:07CV6 TIA
Plaintiffs,	)	
	)	
v.	)	
	)	
C. MARTIN ROOFING CO., INC.,	)	
	)	
Defendant.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court on the Motion for Summary Judgment filed by Plaintiffs National Roofing Industry Pension Plan and John Martini. The parties consented to the jurisdiction of the undersigned pursuant to 28 U.S.C. § 636(c).

Plaintiffs filed their Complaint against Defendant C. Martin Roofing Co., Inc., on January 3, 2007, alleging breach of contract and seeking to collect fringe benefit contributions from Defendant pursuant to §§ 502 and 515 of the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. §§ 1132 and 1154; and pursuant to § 301 of the Labor Management Relations Act (“LMRA”), 29 U.S.C. § 185. (Complaint, ¶ 1) In June of 2007, the undersigned issued an Order Referring the Case to ADR. However, the parties subsequently filed a Joint Motion for Leave to Avoid ADR. In that motion, Defendant acknowledged that it was delinquent on certain payments owed to Plaintiffs. Defendant also indicated that the parties were conducting informal discovery to determine if any questions of fact existed with regard to the amounts but that Defendant would be

responsible for interest on the late payments and for Plaintiffs' attorney's fees. Defendant also stated that it was experiencing cash flow problems and was not in a position at that time to satisfy all amounts owed to Plaintiffs. The undersigned granted said motion to avoid ADR and ordered the parties to submit a joint status report in one month. (Order of August 7, 2007)

On September 5, 2007, the parties submitted their Joint Status Report, indicating some settlement negotiations but no response from Defendant regarding Plaintiffs' settlement proposal. The Plaintiffs filed a Motion for Summary Judgment on October 2, 2007, asserting that there is no material factual dispute that the collective bargaining agreements were effective and binding during the relevant time periods and that there is no dispute regarding Defendant's breach of its contractual obligations during those periods. Plaintiffs request an entry of judgment in their favor in the amount of \$153,441.06. Defendant has not responded to the Motion for Summary Judgment, which has now been pending for over two months.

Accordingly,

**IT IS HEREBY ORDERED** that Defendant **SHOW CAUSE**, in writing within fourteen (14) days from the date of this Memorandum and Order, why the Court should not grant Plaintiffs' Motion for Summary Judgment.

/s/ Terry I. Adelman  
UNITED STATES MAGISTRATE JUDGE

Dated this 3rd day of December, 2007.